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# **Sunset Review: Evaluation of the State Board of Barbers and State Board of Cosmetologists**

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**Presentation to the  
House Economic Matters Committee**

**Department of Legislative Services  
Office of Policy Analysis  
Annapolis, Maryland**

**December 1, 2009**

# Sunset Evaluation – Process

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- Joint evaluation of the State Board of Barbers and the State Board of Cosmetologists conducted during 2009 interim
  - The last full evaluations of both boards were conducted in 1989, with joint follow-up evaluation in 1995
  - A joint preliminary evaluation conducted in 1998 recommended that the boards be waived from further review the following year; subsequent separate preliminary evaluations conducted during the 2008 interim recommended full evaluations for both boards
  - Joint evaluation conducted because issues confronted by both boards are similar, and because they share the same staff, including inspectors
  - Without legislative action, both boards will terminate on July 1, 2011
- Research activities included:
  - interviewing board staff and members, as well as staff from the Maryland Higher Education Commission (MHEC) and Maryland State Department of Education (MSDE);
  - analyzing license, financial, complaint, and inspection data, including an independent data collection from the boards' complaint files;
  - reviewing licensing requirements and fees in other states; and
  - accompanying a board inspector during inspections of multiple barbershops and salons

# State Board of Barbers and State Board of Cosmetologists

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- Boards are charged with:
  - regulating the practice of barbering and cosmetology
  - establishing precautions to prevent the spread of infectious and contagious diseases in the practice of barbering and cosmetology
- Each board consists of seven members
  - two consumer members on each board
  - one member of the State Board of Cosmetology represents private cosmetology schools
  - at least one consumer member position on each board is persistently vacant
- Boards share four full-time staff members
  - executive director, assistant executive director, and two office staff
  - part-time Assistant Attorney General is assigned to the boards
  - up to 12 per diem inspectors at any given time
- **Recommendation 1 (pg. 5): Replace one consumer member of each board with one industry member.**

# Licensing: Requirements

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	<b>School Hours</b>	<b>Apprentice Hours</b>	<b>Exams</b>	<b>Other</b>
Cosmetologist	1,500	2,080	Theory and Practice	Age 17 and complete ninth grade
Senior Cosmetologist	NA	NA	Theory	Two years as licensed cosmetologist
Esthetician	600	1,040	Theory and Practice	Age 17 and complete ninth grade
Nail Technician	250	700	Theory and Practice	Age 17 and complete ninth grade
Barber	1,200	2,250	Theory and Practice	None
Master Barber	NA	NA	Theory	15 months as licensed barber

# Licenses and Permits: Overview

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<b>Type</b>		<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>
<b>Cosmetologist</b>	New	1,809	1,616
	Renewal	10,525	10,484
<b>Cosmetologist – Limited Practice</b>	New	806	696
	Renewal	4,827	4,822
<b>Barber</b>	New	203	207
	Renewal	1,029	1,179
<b>Senior Cosmetologist</b>	New	161	143
	Renewal	3,676	3,628
<b>Master Barber</b>	New	55	46
	Renewal	1,172	1,364
<b>Salon Owner (full and limited)</b>	New	870	721
	Renewal	1,789	1,706
<b>Barbershop Owner</b>	New	154	133
	Renewal	386	438
<b>Cosmetologist Apprentice (full and limited)</b>	New	522	498
	Renewal	223	225
<b>Barber Apprentice</b>	New	155	158
	Renewal	3	4
<b>Total</b>	<b>New</b>	<b>4,735</b>	<b>4,218</b>
	<b>Renewal</b>	<b>23,630</b>	<b>23,850</b>

# Licensing: Increased Fraud

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- Regulations require licensees to affix a picture to their licenses and display the license at their workstation
  - no seal, embossment, or lamination of licenses increases likelihood of fraud
  - frequent violation cited during inspections
- Reciprocal licensing is increasing source of fraud
  - Pennsylvania fraud case results in 46 license revocations
  - pending investigation of fraud in a neighboring state
- **Recommendation 2 (pg. 7): Explore options for attaching photos to licenses in a secure manner and consider measures to increase licensee compliance with the photo requirement, including the possibility of assessing stiffer penalties, such as license suspension, for violations.**

# Inspections: Vital Enforcement Role

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- Four reasons for conducting inspections:
  - new shop inspections
  - consumer complaints
  - routine inspections conducted on rotating schedule
  - board referrals
- Inspections determine whether shops:
  - have valid permits
  - comply with sanitation requirements
  - employ only licensed professionals who properly display their licenses
  - perform only procedures within the relevant scope of practice
  - possess or use any banned substances or equipment
- Stable inspection program is necessary to implement citation program authorized by the General Assembly in 2005
- “Medi-spas” not subject to board inspections
- **Recommendation 3 (pg. 12): Require inspection of new beauty salons, and conform procedures for inspecting barbershops to those for inspecting beauty salons.**

# Inspections: Unstable Funding

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- Number of inspectors dropped from 20 in fiscal 1998 to 1 in fiscal 2006, then increased to 10 by fiscal 2009
- Number of inspections fell from about 9,500 in 2003 to 1,800 in 2007, then back up to about 4,000 in fiscal 2008 and 2009
- Routine inspections suspended for fiscal 2010 following Board of Public Works cost containment measures, resulting in delayed implementation of the citation program
- Boards lack resources to monitor implementation of routine inspection program



# Complaints: Types and Disposition

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
<b>Complaints Received</b>	<b>212</b>	<b>204</b>	<b>308</b>
No License	79	80	176
Beyond Scope of License	16	13	19
Sanitation	54	72	61
Service	32	29	25
Fraud/Monetary	7	8	9
Dismissed/Unsubstantiated	140	78	67
Still Under Investigation	59	95	226
Formal/Informal Hearing	5	22	6
Consent Order	8	9	9

# Complaint Process

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- Statute requires that all complaints be signed; anonymous complaints may be dismissed out of hand
  - Most complaints submitted electronically
- Targets of complaints are subject to inspection within two weeks of complaint being filed
  - Average elapsed time for completed inspections was 75 days
  - Three cases took more than a year for inspections to be conducted
  - Several follow-up inspections never conducted
- Following inspection, cases forwarded to review panel consisting of a board member, senior staff member, and Assistant Attorney General to determine final disposition
  - Panels meet, at most, on a monthly basis
  - Proposal to delegate panel authority to executive director denied by the State Board of Cosmetologists
- **Recommendation 4 (pg. 17): Repeal the requirement that complaints be signed as obsolete; instead, require that complaints contain complainant's name and necessary contact information.**

# Complaint Process (con't.)

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- Prior to taking final action against a licensee, boards must offer the licensee the opportunity for a formal hearing before the board
  - Boards have limited ability to hold formal hearings
  - Formal hearings often require translators; absence of or inadequate translator can force postponement
- License suspension or revocation almost never invoked
  - Average of one or two suspensions or revocations each year
  - Fine payment is not tracked, and unpaid fines are not referred for collection
- **Recommendation 5 (pg. 21): Develop tracking system to alert staff when milestones are not met, including payment of fines. Unpaid fines should be referred for collection.**
- **Recommendation 6 (pg. 22): Explore alternatives to formal hearings to resolve complaints and violations. Delegate authority for panel reviews to the executive director with board-established guidelines.**

# Education and Training: Public and Private Schools

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- Boards have only limited authority over public school career programs and private career schools
  - 1991 reauthorization transferred authority for approving education programs to MSDE (public career training programs) and MHEC (private career schools)
  - Boards maintain their jurisdiction over sanitary conditions in schools and have authority to inspect them to ensure compliance with sanitation rules
  - Statute requires MHEC and MSDE to consult with the boards regarding approval of education programs
- Separate licensing of instructors eliminated in 1991
  - Public school instructors must be senior cosmetologists or master barbers
  - Private career school instructors must have two years of practical experience
- Private career schools are expensive and concentrated in Baltimore-Washington area
  - Tuition for barbering and cosmetology schools range from \$5,000 to almost \$19,000
  - No barbering schools are located outside of metropolitan areas, and only limited options for cosmetology schools in Southern Maryland and the Eastern Shore

# Education and Training: Public and Private Schools (con't.)

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- Public school career programs more prevalent and run smoothly
  - 17 school systems offer cosmetology programs and two offer barbering programs
  - Completion rates are all above 90%
- Boards' advisory role regarding school approval could be strengthened
  - Potential for conflict of interest with the State Board of Cosmetologists limits its role in reviewing school curricula
  - Boards have not adopted detailed curriculum standards for use by private career schools or public school programs
- **Recommendation 7 (pg. 23): Require instructors at private career schools to be either master barbers or senior cosmetologists.**
- **Recommendation 8 (pg. 26): Require boards to develop and periodically update curriculum standards.**

# Education and Training: Apprenticeship Program

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- Designed to provide a low-cost alternative to schools
- An apprentice must (1) be at least 16 years old; (2) have sponsorship of a permitted shop or salon; and (3) have approval of the board
  - A barber apprentice must complete 2,250 hours of practice under a master barber. The apprentice license has a two-year term with one renewal option
  - A cosmetologist apprentice must train for at least 20 hours a week for 24 months (equates to a minimum requirement of 2,080 hours). The apprentice license has a one-year initial term with two renewal options
- **Recommendation 9 (pg. 28): Regulations should be amended to increase the hours of training for cosmetology apprentices under the program to at least 2,800 hours.**
- **Recommendation 10: (pg. 28): Statute should be amended to increase the initial term of the cosmetology apprentice license to two years, consistent with the hourly requirements of the program. The one-year period for limited practice apprenticeship licenses should be retained, with one renewal option.**

# Education and Training: Apprenticeship Program – Oversight

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- Master barbers or senior cosmetologists who sponsor an apprentice must
  - ensure that the apprentice gets theory and practical training;
  - ensure that the apprentice gets the required number of weekly hours;
  - file a monthly report with the board stating the progress of the apprentice; and
  - advise the board when an apprenticeship is discontinued
- Issues
  - The success of the apprentice is dependent on the full participation of the sponsor. If the sponsor fails to file monthly reports, the apprentice does not get credit for the hours they have earned, and therefore cannot sit for the examination or receive licensure
  - It is unclear if apprentices receive the proper amount of practical and theory training to pass the licensing examination. Pass rates are lower for apprentices than for students at barber and cosmetology schools

## Education and Training: Examinations – Pass Rates (selected licenses)

Type	2004	2005	2006	2007	2008	2009
<b>Cosmetologist</b>						
Practical	92%	93%	92%	90%	88%	84%
Theory	43%	47%	48%	47%	48%	46%
<b>Senior Cosmetologist</b>						
Theory	52%	56%	51%	57%	51%	59%
<b>Barber</b>						
Practical	90%	86%	81%	85%	87%	86%
Theory	41%	42%	48%	47%	46%	47%
<b>Master Barber</b>						
Theory	45%	55%	46%	48%	57%	64%



# Education and Training: Examinations – Pass Rates

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- All applicants for initial licensure must pass both a practical and theory exam. Applicants for senior cosmetologists and master barbers only need to take a theory exam
- Pass rates for the theory portion of the examination have consistently been very low
- Potential causes of the low pass rates are the low pass rates for apprentices and the high number of applicants that have English as their second language
- **Recommendation 11 (pg. 31): The boards should review their policies regarding examinations and applicants who have English as their second language. The boards should review the fairness of their policies while maintaining the integrity of the examinations and implement any changes that mitigate language barriers to the examination.**

# Education and Training: Orientation Program

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- To address low pass rates and apprenticeship oversight issues, the boards are attempting an orientation program for new apprentices and their sponsors. The optional program was poorly attended
- **Recommendation 12 (pg. 32): The State Board of Barbers and the State Board of Cosmetologists should develop a plan to improve the apprenticeship program. The plan should aim to improve the oversight of apprentices and their sponsors, increase the pass rates on the licensing examination, and reduce the number of apprentices applying to renew or restart licensure. The boards should have an approved plan in place and should provide that plan to the appropriate standing committees of the General Assembly no later than October 1, 2010. If the boards fail to implement a comprehensive plan, consideration should be given to eliminating the apprenticeship programs due to their lack of effectiveness.**

# Finances, Staffing, and Fees

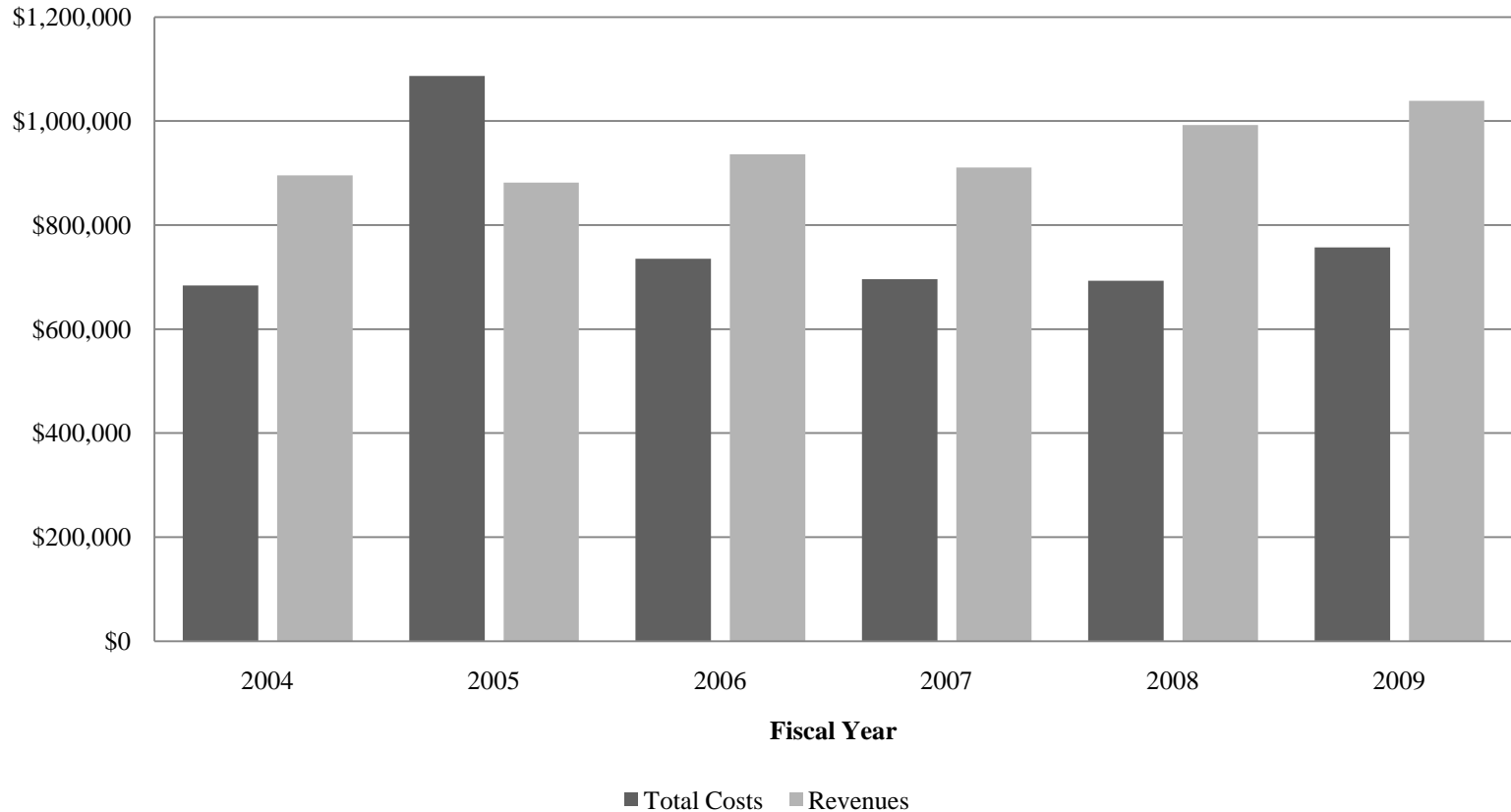
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- Both boards are funded by general fund appropriations
- Revenues include license, renewal, and inspection fees and also inspection fines
- Examination fees are paid to the vendor
- Expenses include direct and indirect expenditures
  - Direct Expenditures: Staff costs for daily activities of boards, per diem inspectors; postage, supplies, etc.
  - Indirect Expenditures: Department of Labor, Licensing, and Regulation (DLLR) administrative costs such as personnel services and central licensing unit
- Revenues for both boards consistently exceed direct and indirect expenditures by at least 30%. Excess revenues benefit the general fund

# Revenues and Expenditures

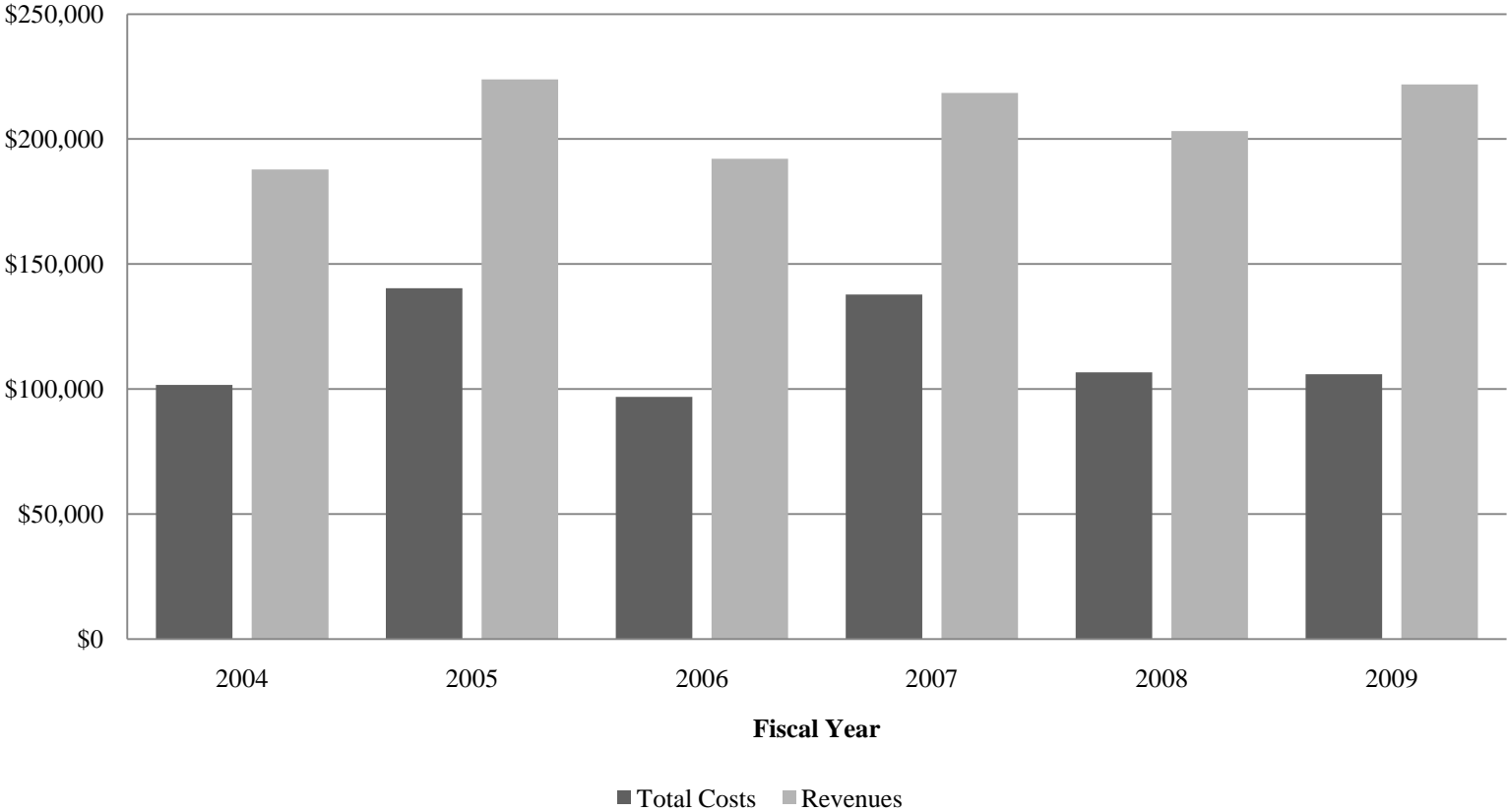
## State Board of Cosmetologists

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# Revenues and Expenditures State Board of Barbers

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# Finances: Licensing and Examination Fees

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License Type	Original	Renewal	Reinstatement	Examination
Cosmetologist	\$25	\$25	\$25	\$75
Senior Cos.	25	25	25	45
Esthetician	25	25	25	75
Nail Tech.	25	25	25	75
Owner – Full Service Salon	50	50	N/A	N/A
Owner – Limited Practice Salon	50	50	N/A	N/A
Apprentice	10	10	N/A	N/A
Barber	50	50	50	75
Master Barber	50	50	50	45
Barbershop	50	50	N/A	N/A

# Finances: Licensing and Examination Fees

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- Revenues consistently exceed expenditures despite relatively low fees
- Fees are not consistent between boards despite the same staff and level of services
  - Fees for cosmetologists are half that of barbers
  - Fees for cosmetologists are set in statute; fees for barbers are set in regulation
- **Recommendation 13 (pg. 37): Statute should be amended to give the State Board of Cosmetologists the same regulatory fee-setting authority as the State Board of Barbers. The board should exercise its new fee-setting authority to increase the licensing fee for cosmetologists (and other practitioners) to \$50, again to be consistent with fees paid by barbers.**

# Staffing

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- Each board has its own budget; however, staffing and other resources are shared
- There are four full-time staff members (reduced from five due to cost containment) to regulate over 50,000 licensees
- Keeping pace with the increase in complaints and inspections is challenging for reduced staff
- Lack of staff is an impediment to the effective implementation of the citation program and monitoring of the apprenticeship programs



# Finances: Special Funding

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- The boards are appropriate candidates for special funding
- 10 of DLLR's 22 professional and occupational boards are special funded
- Special funding will allow the boards to expand staff and other resources to alleviate backlogs, maintain enforcement standards, provide timely licensure, and implement the citation program
- The loss to the general fund could be minimized by the increase in fines related to the new citation program
- General fund impact could also be mitigated by allowing interest earnings and fund balances in excess of 25% of expenditures to be credited to the general fund

# Finances: Special Funding

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- **Recommendation 14 (pg. 40):** Statute should be amended to establish a shared special fund for the State Board of Barbers and the State Board of Cosmetologists, funded with licensing fees, to operate the activities of the boards. All licensing fees should be deposited into the newly created fund. However, fine revenue, interest earnings, and balances in excess of 25% of spending should accrue to the general fund.
- **Recommendation 15 (pg. 40):** The boards should increase the number of staff members to reflect the number of licensees and current workload levels. Given the recommended special funded status of the boards and a recommended increase in cosmetology licensing fees, the boards should have sufficient funds for at least three additional staff members and a full complement of inspectors.

# Conclusion

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- Given the potential for injury and the spread of disease, the Department of Legislative Services (DLS) finds continued need for the regulation of barbering and cosmetology
- The boards lack sufficient resources to maintain a stable inspection program, process consumer complaints in a timely fashion, investigate increasing levels of fraud, and monitor apprenticeship programs
- **Recommendation 16 (pg. 41): Extend the termination date of the boards to July 1, 2021, and require the boards to report to the committees on or before October 1, 2010, on the nonstatutory recommendations contained in the report.**
- The recommendation for a 10-year extension is predicated on adoption of recommendations 13 through 15, which would enable the boards to have sufficient staffing. If those recommendations are not adopted, DLS instead recommends a 5-year extension, with the boards going directly to full evaluation